

Paul L. More, SBN 228589  
F. Benjamin Kowalczyk, SBN 316796  
McCRACKEN, STEMERMAN & HOLSBERRY  
595 Market Street, Suite 800  
San Francisco, California 94105  
Tel. No.: (415) 597-7200  
Fax No.: (415) 597-7200  
E-mail: pmore@msh.law

*Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

INTERNATIONAL  
BROTHERHOOD OF  
TEAMSTERS, LOCAL 396,

Plaintiff,  
vs.

NASA SERVICES, INC.; and  
DOES I through X,

## Defendants.

Case No.: 2:18-cv-03681-KS

**DECLARATION OF JIM  
SMITH IN SUPPORT OF  
MOTION TO COMPEL  
ARBITRATION**

Date: August 20, 2018, 1:30 p.m.

Judge: Hon. Stephen Wilson

Location: Courtroom 10A

1 I, Jim Smith, declare as follows:

2 1. I am the Organizing Director for Teamsters Local 396 (the "Union"), the  
3 Petitioner in this action. The factual statements made in this Declaration are based on  
4 my personal knowledge and, if called upon to do so, I could testify competently to them.

5 2. On February 14, 2017, I sent NASA Services, Inc. a notice of the Union's  
6 intent to organize NASA's employees, as provided for in Paragraph 7 of the  
7 Memorandum of Agreement or Labor Peace Agreement ("LPA") between NASA and the  
8 Union. A true and correct copy of that notice is attached to this Declaration as Exhibit  
9 1.

10 3. The Union did not hear back from NASA, so I sent a second notice on April  
11 10, 2017. A true and correct copy of that notice is attached to this Declaration as  
12 Exhibit 2.

13 4. After this second notice, the Union's Secretary-Treasurer and I reached out  
14 to NASA's consultant, Mario Beltran. Mr. Beltran had been involved in negotiating the  
15 LPA between NASA and the Union in 2014. I spoke with Mr. Beltran several times on  
16 the phone during the months of May and June 2017. I expressed the Union's  
17 dissatisfaction that NASA was not complying with its obligations under the LPA,  
18 including the requirements that NASA provide the Union with a list of its employees  
19 and its obligation to provide the Union with access to its facility so that the Union could  
20 speak with these employees. During the conversations that I had with Mr. Beltran, he  
21 never asserted that the parties' LPA had become void or was not in effect.

22 5. Mr. Beltran brokered a meeting between the Union's representatives and  
23 NASA's officials. This meeting took place on July 24, 2017 at a restaurant called  
24 Vespaio, in downtown Los Angeles. Present at this meeting were Union Secretary-  
25 Treasurer Ron Herrera, myself, Union Vice President Javier Bonales, Mr. Beltran,  
26 NASA's President Arsen Sarkisian, and another NASA official, Nick Sarkisian.  
27 Secretary-Treasurer Herrera again expressed his displeasure that NASA had not  
28 complied with its obligations under the LPA, such as providing the Union with a list of

1 its employees and agreeing to allow union representatives to access its facilities.  
2 Neither Arsen Sarkisian nor Mr. Beltran asserted at this meeting that the parties' LPA  
3 had become void or was inoperative. Instead, they told the Union that it had been  
4 difficult to comply with the LPA because NASA was still transitioning into the City  
5 exclusive waste franchise. Arsen Sarkisian asked that NASA be given time to  
6 transition before the Union began organizing under the LPA. The Union's Secretary-  
7 Treasurer agreed, and asked Mr. Smith and Mr. Beltran to follow up with a plan on  
8 complying with the LPA.

9       6. Mr. Beltran, Union Secretary-Treasurer Ron Herrera, and I held another  
10 meeting on August 14, 2017 at the Union's offices in Covina, California. At this  
11 meeting, Mr. Beltran, Secretary-Treasurer Herrera and I continued our discussion of a  
12 timeline for NASA's compliance with the LPA. At no point during this meeting did Mr.  
13 Beltran state that NASA believed the LPA have become void or inoperative. Mr.  
14 Beltran told Secretary-Treasurer Herrera and I that NASA would provide the  
15 information required of it in the LPA in the near future, and asked me to reach out to  
16 him again.

17       7. I reached out to Mr. Beltran many times over the ensuing month and a  
18 half. Attached to this Declaration as Exhibit 3 are screen shots of text messages that I  
19 exchanged with Mr. Beltran during August, September and October 2017, as well as an  
20 email from shortly after our August 14, 2017 meeting. Again, Mr. Beltran did not  
21 respond to my inquiries into the status of NASA's compliance with the LPA by  
22 informing the Union that the LPA had become void. Instead, he told me that he was  
23 meeting with NASA's owners, which I understood to mean that NASA would soon  
24 comply with its obligations under the LPA.

25       8. At no point from the date the City of Los Angeles awarded NASA an  
26 exclusive waste-hauling franchise to the present has the Union picketed or taken any  
27 economic action against NASA. Typically, when the Union is confronted with a  
28 recalcitrant employer, it uses its federally protected rights to strike, picket, boycott and

1 publicize that an employer is a bad actor. The Union did not do so against NASA  
2 because it was bound by Paragraph 11 of the LPA, which prohibits the Union from  
3 "engag[ing] in striking, picketing or other economic activity" against NASA. If NASA  
4 had responded to the Union's initial notice of intent to organize in February 2017 by  
5 forthrightly stating that it contended that the LPA had become void, the Union could  
6 have elected to picket NASA and taken other economic action against it at a time  
7 when it was beginning to transition into its role as an exclusive franchisee of the City  
8 and was particularly vulnerable to such pressure.

9 I declare under penalty of perjury under the laws of the United States that the  
10 foregoing is true and correct. Executed this 23rd day of July, 2018 at Covina,  
11 California.

12   
13 Jim Smith

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

3  
4 I am employed in the city and county of San Francisco, State of  
5 California. I am over the age of eighteen years and not a party to the within  
6 action; my business address is: 595 Market Street, Suite 800, San Francisco,  
California 94105.

7 On July 23, 2018 I served a copy of the following document(s) described  
8 as:

9 DECLARATION OF JIM SMITH IN SUPPORT OF MOTION TO COMPEL  
10 ARBITRATION

11 on the interested party(ies) to this action as follows:

13 By ECF System - Court's Notice of Electronic Filing:

14  
15 L Brent Garrett  
16 Atkinson Andelson Loya Ruud and Romo  
17 12800 Center Court Drive South Suite 300  
Cerritos, CA 90703  
18 562-653-3200  
Fax: 562-653-3333  
19 Email: bgarrett@aalrr.com

20  
21 *Attorneys for NASA Services, Inc.*

22  
23 I declare under penalty of perjury under the laws of the State of  
California that the foregoing is true and correct.

24  
25 Executed on this 23rd day of July 2018, at San Francisco, California.



26  
27  
28 Katherine Maddux

## EXHIBIT 1



# Teamsters Local Union No. 396

## Package and General Utility Drivers

*Affiliated with the*

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

### Executive Board

**Ron Herrera**  
Secretary Treasurer

**Jay Phillips**  
President

**Javier Bonales**  
Vice President

**David Castro**  
Recording Secretary

**Rafael Camacho**  
Trustee

**Kathy Arredondo**  
Trustee

**Ruben Duran**  
Trustee

February 14, 2017

SENT VIA EMAIL AND CERTIFIED U.S. MAIL

Jack Topalian  
NASA Services  
1100 S. Maple Avenue  
Montebello, CA 90640

Dear Mr. Topalian,

As you are aware, Teamsters Local Union No. 396 (Local 396) and NASA Services are parties to a labor peace agreement that is currently in effect. This letter provides notice to you that Local 396 intends to organize Employees covered by that agreement.

Pursuant to paragraph 7 of the agreement, NASA Services is required to provide access to its premises and to its Employees by Local 396, subject to the conditions prescribed in the agreement. This letter shall serve as a courtesy notice to NASA Services that Local 396 will be exercising that privilege, effective immediately, and in the days and weeks to come.

Furthermore, also pursuant to paragraph 7, we request that Local 396 and NASA Services provide a joint letter to all Employees, summarizing the terms of the labor peace agreement, in language approved by both NASA Services and the Local 396, which shall be posted by NASA Services, pursuant to the terms provided in the agreement. We will be providing a draft letter for your review in the near future.

And finally, pursuant to paragraph 8, NASA Services is required to provide Local 396 with a copy of its Employer handbook, as well a list of Employees, including both full- and part-time Employees, showing their job classifications, departments, seniority dates, and home addresses (to the extent known by NASA Services). Please provide the aforementioned handbook and list within thirty (30) days to the following address:

Jim Smith  
Teamsters Local Union No. 396  
880 Oak Park Road, Suite 200  
Covina, CA 91724

Please also provide this list via email in Excel format to [jimsmith@local396.net](mailto:jimsmith@local396.net). Under our labor peace agreement, this list must be updated and provided to Local 396 monthly. Please provide future lists to the Local 396 contact listed above, unless instructed otherwise.

Respectfully,

Ron Herrera  
Secretary-Treasurer  
Teamsters Local Union No. 396

CERTIFIED U.S. MAIL # 7014 2870 0000 7839 0291

880 Oak Park Road • Suite 200 • Covina, California 91724

Phone (626) 915-3636 • (877) 785-8396 • Fax (626) 915-3635 • E-mail: [teamsters@local396.net](mailto:teamsters@local396.net)



## EXHIBIT 2



# Teamsters Local Union No. 396

## Package and General Utility Drivers

*Affiliated with the*

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

### Executive Board

**Ron Herrera**  
Secretary Treasurer

**Jay Phillips**  
President

**Javier Bonales**  
Vice President

**David Castro**  
Recording Secretary

**Rafael Camacho**  
Trustee

**Kathy Arredondo**  
Trustee

**Ruben Duran**  
Trustee

April 10, 2017

SENT VIA EMAIL AND CERTIFIED U.S. MAIL

Jack Topalian  
NASA Services  
1100 S. Maple Avenue  
Montebello, CA 90640

Dear Mr. Topalian,

On February 14, 2017, our office sent you a letter providing notice that Local 396 intends to organize Employees covered by the labor peace agreement (LPA) currently in effect, to which Teamsters Local Union No. 396 (Local 396) and NASA Services are parties. We also requested certain information, pursuant to the LPA. As of this date, we have not received a response from you. We are therefore once again requesting that you comply with the following provisions of the LPA, without delay:

Pursuant to paragraph 7 of the agreement, NASA Services is required to provide access to its premises and to its Employees by Local 396, subject to the conditions prescribed in the agreement. This letter shall serve as a courtesy notice to NASA Services that Local 396 will be exercising that privilege, effective immediately, and in the days and weeks to come.

Furthermore, also pursuant to paragraph 7, we request that Local 396 and NASA Services provide a joint letter to all Employees, summarizing the terms of the labor peace agreement, in language approved by both NASA Services and the Local 396, which shall be posted by NASA Services, pursuant to the terms provided in the agreement. We will be providing a draft letter for your review in the near future.

And finally, pursuant to paragraph 8, NASA Services is required to provide Local 396 with a copy of its Employer handbook, as well a list of Employees, including both full- and part-time Employees, showing their job classifications, departments, seniority dates, and home addresses (to the extent known by NASA Services).

880 Oak Park Road • Suite 200 • Covina, California 91724  
Phone (626) 915-3636 • (877) 785-8396 • Fax (626) 915-3635 • E-mail: [teamsters@local396.net](mailto:teamsters@local396.net)



Please provide the aforementioned handbook and list immediately to the following address:

**Jim Smith**  
**Teamsters Local Union No. 396**  
**880 Oak Park Road, Suite 200**  
**Covina, CA 91724**

Please also provide this list via email in Excel format to [jimsmith@local396.net](mailto:jimsmith@local396.net). Under our labor peace agreement, this list must be updated and provided to Local 396 monthly. Please provide future lists to the Local 396 contact listed above, unless instructed otherwise.

If we do not hear from you by close of business on Monday April 17, 2017, we will have no other alternative but to pursue enforcement through Section 14 of the LPA.

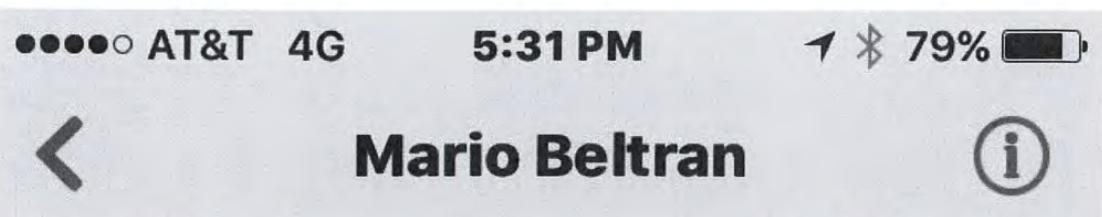
Respectfully,



Ron Herrera  
Secretary-Treasurer  
Teamsters Local Union No. 396

CERTIFIED U.S. MAIL # 7014 2870 0000 7839 0383

## EXHIBIT 3



**Mario Beltran**



**Wed, Aug 23, 2:18 PM**

Did you get my email  
from last Thursday?

**Thu, Aug 24, 2:51 PM**

Yes. I am waiting BG  
to hear from the  
owners

Ok, keep me posted.  
I'll check back in a  
couple of days.

**Mon, Aug 28, 12:29 PM**

Any update?

••••• AT&T 4G 5:31 PM 79% 



**Mario Beltran**



**Wed, Sep 6, 11:18 AM**

**Any update?**

**Fri, Sep 8, 11:03 AM**

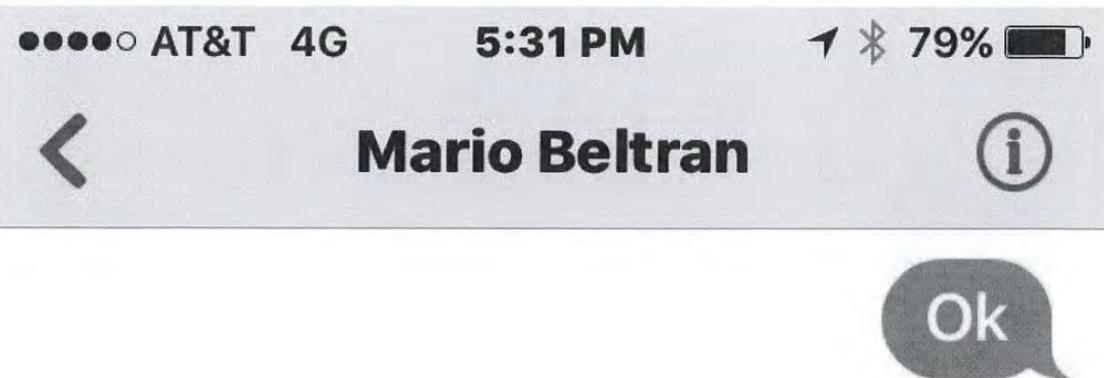
**Any update?**

**Wed, Sep 13, 2:05 PM**

**Do you have a cell  
number for Arsen  
Sarkisian?**

**Wed, Sep 13, 3:06 PM**

**I am in Mexico. Will  
call you Friday when  
I get back.**



**Fri, Sep 15, 1:31 PM**

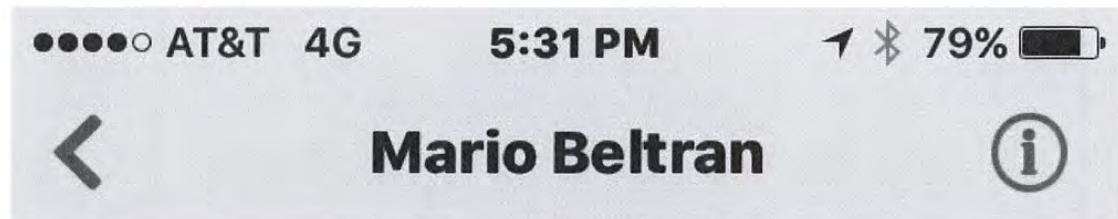
I am available for a  
call anytime this  
afternoon.

**Thu, Sep 21, 12:00 PM**

Any update from the  
clients?

I am meeting with  
them this afternoon.  
Will keep you posted

Thanks!



**Mario Beltran**



**Fri, Sep 22, 10:20 AM**

How did your  
meeting go?

**Fri, Sep 22, 1:03 PM**

Was moved to later  
today

Ok

**Sun, Sep 24, 10:17 AM**

How did the meeting  
go on Friday?

**Wed, Sep 27, 1:12 PM**

••••• AT&T 4G 5:31 PM 79% 



**Mario Beltran**



**Sun, Sep 24, 10:17 AM**

How did the meeting  
go on Friday?

**Wed, Sep 27, 1:12 PM**

How did the meeting  
go last Friday? We  
need to move  
forward with this.

**Fri, Sep 29, 10:35 AM**

Any update?

**Mon, Oct 2, 11:38 AM**

Any update?

[jimsmith@local396.net](mailto:jimsmith@local396.net)

---

**From:** Jim Smith <[jimsmith@local396.net](mailto:jimsmith@local396.net)>  
**Date:** Thursday, August 17, 2017 at 11:30 AM  
**To:** Mario Beltran <[mario@principiagroupllc.com](mailto:mario@principiagroupllc.com)>  
**Subject:** Re: Meeting with NASA

Good morning Mario,

I wanted to follow-up on our meeting earlier this week, and picking up on Ron's suggestion, coordinate with you directly regarding next steps.

There are a couple of steps that I thought we could take in the immediate future to continue the momentum we have been able to establish following our last two meetings in fostering a spirit of cooperation and partnership.

- 1) Schedule, plan and conduct a meeting between the Union, ownership/management, and the employees, at which a unified message is conveyed by both sides that the parties view this relationship as a partnership, and that we look forward to working together to help grow the business, and make NASA a great company for which to work. This meeting would take place either immediately before or after working hours, in order to not interfere with the business, and to assure maximum participation;
- 2) Craft, post and distribute a joint letter to the same effect.

Separate from this, we would also like to renew our request for a current list of NASA employees showing their job classifications, departments, seniority dates, and home addresses. Providing this list will assist us in communicating with NASA employees and further convey this message of cooperation and partnership. It will also demonstrate good will on the part of the Company, and send a message to the Union and the employees that NASA is prepared to live up to its agreement with the Union.

I'm interested in hearing your thoughts and feedback, and am open to suggestions on other steps we can take to move this partnership forward and continue the momentum we have recently been able to establish.

Respectfully,

*Jim Smith*

Director of Organizing  
Political Coordinator  
Business Representative

**Teamsters Local Union No. 396**

880 Oak Park Road, Suite 200  
Covina, CA 91724  
(626) 915-3636 x304 (office)  
(213) 447-2144 (cell)  
(626) 915-3635 (fax)  
[jimsmith@local396.net](mailto:jimsmith@local396.net)